

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LOUIS JAMES THIBODEAUX,

Plaintiff,

v.

DANIEL WHITE, et al.,

Defendants.

CASE NO. C20-5110 BHS-JRC

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable J. Richard Creatura, United States Magistrate Judge, Dkt. 15, and Plaintiff Louis James Thibodeaux’s (“Plaintiff”) objections to the R&R, Dkt. 16.

On April 22, 2020, Plaintiff filed a motion for summary judgment. Dkt. 9. On May 19, 2020, Judge Creatura issued the R&R recommending that the Court deny the motion without prejudice because at that time no defendant had either been served or appeared. Dkt. 15. On May 28, 2020, Plaintiff filed objections. Dkt. 16.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Plaintiff objects to the R&R arguing that the Court should simply
4 renote his motion instead of denying it without prejudice. Dkt. 16. The Court agrees
5 with the R&R that denial without prejudice is more appropriate at this early stage of the
6 proceeding as opposed to renoting the motion. Now that Defendants have appeared and
7 filed a dispositive motion, Plaintiff may refile his motion if and when he chooses to do
8 so. Therefore, the Court having considered the R&R, Plaintiff's objections, and the
9 remaining record, does hereby find and order as follows:

10 (1) The R&R is **ADOPTED**; and

11 (2) Plaintiff's motion for partial summary judgment is **DENIED**;

12 Dated this 28th day of July, 2020.

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15 BENJAMIN H. SETTLE
16 United States District Judge
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